

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. FD 35972

WEST BELT RAILWAY, LLC—LEASE AND OPERATION EXEMPTION INCLUDING  
INTERCHANGE COMMITMENT—TERMINAL RAILROAD ASSOCIATION  
OF ST. LOUIS

Decided: November 20, 2015

On October 22, 2015, West Belt Railway LLC (WBRY), a noncarrier, filed a verified notice of exemption under 49 C.F.R. § 1150.31 to lease from Terminal Railroad Association of St. Louis (TRRA) and to operate, pursuant to a Lease Agreement dated October 14, 2015, approximately 9.66 miles of rail line consisting of the following two segments: (1) the West Belt Industry Lead (WBIL) from approximately milepost 1.07 at Adelaide Avenue to the end of track at approximately milepost 9.54; and (2) the Central Belt Industrial Lead from its point of connection to the WBIL at approximately milepost 9.54 to the end of track, all located in the City of St. Louis, St. Louis County, Mo.

WBRY stated that the Lease Agreement may limit future interchange with a third party connecting carrier. This is an interchange commitment. The affected interchange point is Rock Island Junction in the City of St. Louis. Pursuant to 49 C.F.R. § 1150.33, WBRY certified that it attached a complete copy of the Lease Agreement, which the Board treats as confidential pursuant to the regulation. WBRY was also required by the regulation to list third party railroads that could physically interchange with the line sought to be leased. According to WBRY, a rail line owned by Union Pacific Railroad Company that is leased to Central Midland Railway Company could interchange with the rail line at Rock Island Junction. Also, in a letter filed on October 23, 2015, WBRY corrected the list of shippers it had included in its notice.

The notice of exemption was published in the Federal Register on November 6, 2015, with an effective date of November 21, 2015. 80 Fed. Reg. 68,900.

On November 13, 2015, Ameren Missouri (Ameren), one of the shippers listed in WBRY's October 23 letter, filed two motions: (1) a Motion for Access to Confidential Documents under 49 C.F.R. § 1150.33(h)(2) and (2) a Motion for Housekeeping Stay, to allow more time for the procedures set out in 49 C.F.R. § 1150.33(h)(2). Ameren believes that a housekeeping stay is appropriate because it needs more time in order to obtain and analyze the confidential Lease Agreement. In particular, Ameren expressed concern that it may be harmed by the proposed interchange commitment.

On November 18, WBRY responded to both motions. Regarding the Motion for Access to Confidential Documents, WBRY agrees to provide a confidential complete version of the Lease Agreement to an attorney or consultant for Ameren upon receipt from Ameren of a signed Undertaking regarding Highly Confidential Material, without awaiting a Board-approved confidentiality agreement. WBRY also agrees to provide a confidential version of the Lease Agreement, in which competitive and commercially sensitive information is redacted, to other Ameren personnel upon receipt from Ameren of a signed Undertaking regarding Confidential Material, without awaiting a Board-approved confidentiality agreement. WBRY states that it will e-mail these versions of the Lease Agreement to Ameren's counsel on the same day that counsel for Ameren e-mails the respective signed Undertaking(s) to WBRY's counsel. Accordingly, the Board has granted Ameren's Motion for Access on November 20, 2015.

Regarding Ameren's Motion for Housekeeping Stay, WBRY says that it voluntarily agrees to refrain from consummating the lease and commencing operation of the rail line until December 1, 2015. WBRY argues that the additional time for review of the Lease Agreement and the absence of any adverse effect of the interchange commitment on Ameren negate any need for a housekeeping stay.<sup>1</sup>

WBRY's willingness to refrain from consummating the lease until December 1, 2015, does not provide sufficient time for Ameren to review the Lease Agreement and potentially seek a remedy with the Board, especially given the intervening Thanksgiving holiday. Accordingly, the Board will postpone the effective date of the exemption until December 11, 2015, three weeks from the date of the order granting Ameren's Motion for Access. Should Ameren seek further relief from the Board based on its review of the Lease Agreement, it must file any pleading by December 4, 2015, if it wishes the Board to act before the exemption becomes effective.

It is ordered:

1. The effective date of the exemption is postponed until December 11, 2015.
2. Should Ameren seek further relief from the Board based on its review of the Lease Agreement, it must file any pleading by December 4, 2015, if it wishes the Board to act before the exemption becomes effective.
3. This decision is effective on the date of service.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

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<sup>1</sup> WBRY argues that the interchange commitment will have no adverse effect upon Ameren, because Ameren has neither shipped nor received traffic over the subject line in nearly five years. WBRY Reply 3. WBRY further contends that Ameren's service, if any, will not change in any respect, as TRRA will continue to interchange traffic with Central Midland Railway Co. at Shreve Avenue in St. Louis, just as it does at present. *Id.* at 4.